

R E M A R K S

Claims 98-103, 105-113 and 121 are pending in the present application.

Both the parent application and this application describe methods and advices for performing cell migration assays. The instant application describes additional embodiments for cell migration assays, including the use of particular cell seeding device embodiments for confining cells to a predetermined area in a well. Related U.S. applications and issued patents are as follows: 7,018,838; 11/342,413; 11/890,740; and 12/195,007.

The following rejections are at issue:

1. Claims 98-101, 103, 105, 113 and 121 are rejected under 35 USC 103 as being obvious over U.S. Appl. No. 2008/0187949 (Goldbard) in view of U.S. Pat. No. 6,171,780 (Pham); and
2. Claim 102 is rejected under 35 USC 103 as being obvious over U.S. Appl. No. 2008/0187949 (Goldbard) in view of U.S. Pat. No. 6,171,780 (Pham) and WO 99/63329 (Abbott).

1. Claims 98-101, 103, 105, 113 and 121 are not obvious

Claims 98-101, 103, 105, and 121 are rejected under 35 USC 103 as being obvious over U.S. Appl. No. 2008/0187949 (Goldbard) in view of U.S. Pat. No. 6,171,780 (Pham). Applicants respectfully disagree.

In response to Applicants previous arguments, the Examiner states:

It is the examiner's position that applying cells to a well with a device does not lend patentability and is found in numerous references cited herein. Regarding Goldbard specifically, in paragraph 19 the wells are described that permit and restrict cell migration and passive movement of cells. See paragraph 21 which further describes the wells permitting migratory loss of cells from subcompartments and localization of cells to subregions. Pham teaches in column

3 lines 31-34, cells in multiwell plates which are assayed. Pham and Abbott were not cited to teach confining cells to a predetermined area on the bottom surface of a well. A pipette has an opening of predetermined area and when cells in solution are placed in a well with a pipette, the cells are inherently confined to a discrete location within that well. **The claims are not limited to leaving a pipette in the following application of cells to the well nor culturing the cells in the presence of a pipette so that the cells are confined to an area defined by the pipette. (Emphasis added).**

The Examiner's attention is respectfully directed to steps d) and e) of the pending claims:

- d) incubating said cells with said insert in said at least one well;
- e) removing said insert, wherein said seeded cells are confined to said discrete location defined by said insert;

Contrary to the Examiner's opinion, the claims are limited to incubating the cells with the insert (which the Examiner is equating to a pipette even though that assertion is misguided) in the well (i.e., leaving the insert in the well following application of the cells and culturing the cells in the presence of the pipette) and then removing the pipette so that the cells are confined to an area defined by the insert. The Examiner has failed to address these claim elements and has failed to establish a *prima facie* case of obviousness as a result.

Applicants respectfully submit that failure to consider the claim language and elements is leading to an unreasonable delay in the prosecution of this application. These claim elements were in the previously submitted claims in Applicants' last response. The Examiner failed to address the claim limitations. Applicants respectfully submit that no *prima facie* of obviousness has been established because the cited references do not teach each element of the claims. Accordingly, the rejection should be withdrawn.

2. Claim 102 is not obvious

Claim 102 is rejected under 35 USC 103 as being obvious over U.S. Appl. No. 2008/0187949 (Goldbard) in view of U.S. Pat. No. 6,171,780 (Pham) and WO 99/63329 (Abbott). Abbott does not cure the defects noted for the combination of Goldbard and Pham. Accordingly, Applicants respectfully request that this rejection be withdrawn.

C O N C L U S I O N

All grounds of rejection and objection of the Office Action of February 4, 2011 having been addressed, reconsideration of the application is respectfully requested. It is respectfully submitted that the invention as claimed fully meets all requirements and that the claims are worthy of allowance. Should the Examiner believe that a telephone interview would aid in the prosecution of this application, Applicant encourages the Examiner to call the undersigned collect at (608) 662-1277.

Dated: July 5, 2011

J. Mitchell Jones/
J. Mitchell Jones
Registration No. 44,174

CASIMIR JONES, C.C.
2275 Deming Way, Suite 310
Middleton, WI 53562